

Senate Concurrent Resolution No. 66

RESOLUTION CHAPTER 83

Senate Concurrent Resolution No. 66—Relative to postsecondary education.

[Filed with Secretary of State September 11, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

SCR 66, Kopp. Postsecondary education: academic research: “gag clauses.”

This measure would urge the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Community Colleges, and the governing board of each community college district in the state to prohibit the institutions under their jurisdiction, or any of the staff or component parts of those institutions, from signing any agreement that requires the permission of an entity outside the institution to publish or otherwise communicate the results of academic research, unless the research involves proprietary information, the release of which would negatively affect the commercial value of the research of the sponsor, if the research does not affect the public health or welfare, or unless national security considerations require confidentiality. The measure would also urge the regents, trustees, board of governors, and governing board of each community college district to contest vigorously the enforcement of any such “gag clause” that may be a part of a contract previously executed by an institution under its jurisdiction or any of the staff or component parts of that institution.

WHEREAS, Recent revelations demonstrate to the Legislature that attorneys for the University of California recently advised one of its distinguished researchers, Dr. Betty Dong, that it could be detrimental to her and the university to contest a contract that she had signed with the corporate sponsor of her research permitting the corporation to suppress an academic manuscript that was to have been published by the Journal of the American Medical Association; and

WHEREAS, The results of the suppressed study would have likely been harmful to the financial interests of a major pharmaceutical manufacturer that had financed the study; and

WHEREAS, The contract for the study, entered into between the pharmaceutical manufacturer and Dr. Dong, included a so-called “gag clause”—a provision prohibiting publication of results of the study without the permission of the manufacturer; and

WHEREAS, The existence of a “gag clause” relating to academic research is antithetical to the spirit of free inquiry that must prevail at all publicly funded California universities; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That, to ensure academic freedom, the Legislature of the State of California urges the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Community Colleges, and the governing board of each community college district in the state to prohibit the institutions under their jurisdiction, or any of the staff or component parts of these institutions, from signing any agreement that requires the permission of an entity outside the institution to publish or otherwise communicate the results of academic research, unless the research involves proprietary information, the release of which would negatively affect the commercial value of the research of the sponsor, provided that the research does not affect the public health or welfare, or unless national security considerations require confidentiality; and be it further

Resolved, That the Legislature also urges the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Community Colleges, and the governing board of each community college district in the state to contest vigorously the enforcement of any such “gag clause” that may be a part of a contract previously executed by an institution under its jurisdiction, or any of the staff or component parts of that institution; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to each member of the Regents of the University of California, each member of the Trustees of the California State University, each member of the Board of Governors of the California Community Colleges, and the presiding officer of the governing board of each community college district in the state.

